



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
On October 27, 2003 _____

Date of Meeting: June 23, 2003

The Mayor and Council of the city of Tucson met in regular session, in the Mayor and Council Chambers, in City Hall, 255 West Alameda, Tucson, Arizona, at 7:38 p.m., on Monday, June 23, 2003, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra
Carol W. West
Kathleen Dunbar
Shirley C. Scott
Steve Leal
Fred Ronstadt
Robert E. Walkup
Kathleen S. Detrick

Council Member Ward 1
Council Member Ward 2
Council Member Ward 3
Vice Mayor Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor
City Clerk

Absent/Excused:

None

Staff Members Present:

James Keene
Mike Letcher
Ernie Duarte
Peter Gavin

City Manager
Deputy City Manager
Development Services Director
Zoning Examiner

Michael House
Frank Kern

City Attorney
Principal Assistant City Attorney

Debra Armenta
Nora Dunn
Kent Miller

City Clerk's Office
Recording Secretary
Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Pastor Albert Baca Jr., of Faith Tabernacle United Pentecost Church, after which the pledge of allegiance was presented by the entire assembly.

Presentations

A. Extraordinary Citizen Awards

Mayor Walkup presented Extraordinary Citizen Awards to Roy Madril and Chris Martinez for their attentiveness and perseverance in pursuing a man that had stolen a car with two small children in the backseat.

Council Member Leal asked that copies of the Channel 12 video be made for their families.

Mr. Madril said he and Mr. Martinez did not think that what they had done was any big deal and he had not wanted to come to this meeting, but his mentor talked him into it. He said they did it because they realized it could have been a member of their family.

Mayor Walkup said the council was pleased to present the awards.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that the city manager's communication number 367, dated June 23, 2003, would be received into and made part of the record. He also announced that this was the time for any member of the council to report on current events and asked if there were any reports.

A. Ideas and Concepts Report

Council Member Dunbar announced that Dr. Corky Poster and his architectural students would give a report on their ideas and concepts for the Campbell Avenue Corridor on June 24, 2003, at the ward three council office.

B. New Dog Run

Council Member West invited everyone to visit the new dog run at Palo Verde Park on Saturday, June 28, at 9:00 a.m. Ice cream treats would be served for the dogs. She advised that the dogs must be vaccinated.

C. New Staff

Council Member West announced that Eve Thorburn has joined her staff and wished Karen Leoni well in her new position as project manager for Rio Nuevo.

Mayor Walkup asked if there were any additional reports. There were none.

3. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 368, dated June 23, 2003, would be received into and made a part of the record. He also announced that this was the time for the city manager to report on current events.

James Keene, city manager, on behalf of the staff at the environmental services department and Rio Nuevo office, announced that the Environmental Protection Agency has awarded the city of Tucson two new grants, totaling \$275,000, for assessment and cleanup of various contaminated downtown locations dealing with remediation efforts. The funds will be used in the warehouse district near Simpson and I-10 and in the area of closed landfills between the Santa Cruz River and A-Mountain. The EPA recognized those areas as critical components of the Rio Nuevo Project, which they have fully endorsed.

5. CALL TO THE AUDIENCE

Mayor Walkup announced that this was the time any member of the audience was allowed to address the mayor and council on any subject not listed on the agenda. He asked speakers to limit their presentations to three minutes, for a total of 15 minutes, and said there would also be a call to the audience at the end of the meeting. He asked if anyone wished to address the council.

A. AIMS Test

Bill Katzel, said the state of Arizona has an evaluation tool for education known as the Arizona Instrument to Measure Students (AIMS) Test. By June of 2006, the test will be an evaluation requirement for each student to pass in order to graduate from high school. If each Arizona student must pass an evaluation tool to graduate from high school he asked why not have an evaluation tool for the major legislative policy and procedural actions of the mayor and council and senior staff of the city of Tucson that affect the citizens of the region. AIMS for the mayor and council and senior staff of the city of Tucson would stand for attitude, integrity, merit, and sensibility. If mayor and council and senior staff legislative policy and procedural actions did not meet the AIMS evaluation criteria they would have to be modified, redone or rescinded until they passed the AIMS evaluation criteria.

Specific examples in which AIMS could be applied were the proposed half-cent sales tax increase to fund \$21 million of grade separated intersections and the \$800,000 expenditure of city money to promote the initiative. Another example was the resolution of the city's tens of millions of dollars deficit for the next several fiscal years. Another is the five plus years of misinterpretation of state law against bicyclists by two successive city attorneys. These misinterpretations go against the advice of both the citizen transportation advisory committee and the Tucson-Pima County Bicycle Advisory Committee and have adverse consequences on the bicyclists and economy of the region. A fourth example is maintaining a restrictive list to access city hall and the subsequent publishing of a deficient policy on that subject. A fifth is the consideration, reconsideration, and possible future passage of the 29-page draft parade/protest ordinance. Sixth would be the fiasco of painting the "A" on A-Mountain.

Mr. Katzel said those were but a few examples of where an attitude, integrity, merit, and sensibility test for city officials could be applied and the results disseminated to the public for consideration during elections of the mayor and council and the appointment of senior staff members. City employees have to meet evaluation criteria to keep their jobs and receive promotions, why should the mayor and council, and senior city staff not have such criteria to keep their jobs? The suggested AIMS Test could provide the public with this much-needed evaluation tool and the results could be published in the media for public consumption and use.

Mayor Walkup asked if anyone else wished to address the council. There was no one.

6. CONSENT AGENDA – ITEMS A THROUGH O

Mayor Walkup announced that the reports and recommendations from the city manager on the consent agenda items would be received into and made a part of the record. He asked the city clerk to read the consent agenda items.

A. PROFESSIONAL SERVICES: RENEWAL OF CONTRACT WITH SACKS TIERNEY LAW FIRM FOR REPRESENTATION OF WATER ISSUES

- (1) Report from City Manager JUNE23-03-364 CITY-WIDE & OUTSIDE CITY
- (2) Resolution No. 19618 relating to professional services; approving an agreement with Sacks Tierney P.A., Lawyers, for representation on water issues; and declaring an emergency.

B. TUCSON CODE: AMENDING (CHAPTER 20) RELATING TO PARKING CITATION FINE STRUCTURE

- (1) Report from City Manager JUNE23-03-365 CITY-WIDE
- (2) Ordinance No. 9867 relating to motor vehicles and traffic; amending the Tucson Code, Chapter 20, motor vehicles and traffic, Article VII; stopping, standing and parking, Division 3, parking for individuals with physical disabilities, Section 20-221 penalty, Division 4, basic parking controls; Section 20-225 penalty, Division 5, nuisance parking controls, Section 20-246 penalty, Division 6, safety issues, Section 20-271 penalty; and declaring an emergency.

C. ASSURANCE AGREEMENT: (S03-002) ADOBE GARDENS, LOTS 1 TO 7 AND COMMON AREA "A"

- (1) Report from City Manager JUNE23-03-370 W3
- (2) Resolution No. 19624 relating to planning; authorizing the mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S03-002 of a final plat for the Adobe Gardens Subdivision, Lots 1 to 7 and Common Areas "A"; and declaring an emergency.

- D. FINAL PLAT: (S03-002) ADOBE GARDENS, LOTS 1 TO 7 AND COMMON AREA "A"
- (1) Report from City Manager JUNE23-03-362 W3
 - (2) The City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- E. ASSURANCE AGREEMENT: (S02-028) KLEINDALE HOMES, LOTS 1 TO 6 AND COMMON AREAS "A" AND "B"
- (1) Report from City Manager JUNE23-03-378 W3
 - (2) Resolution No. 19625 relating to planning: authorizing the mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S02-028 of a final plat for the Kleindale Homes I Subdivision, Lots 1 to 6 and Common Areas "A", and "B", and declaring an emergency.
- F. FINAL PLAT: (S02-028) KLEINDALE HOMES, LOTS 1 TO 6 AND COMMON AREAS "A" AND "B"
- (1) Report from City Manager JUNE23-03-363 W3
 - (2) The City Manager recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- G. FINANCE: CONTINGENCY FUND TRANSFER FOR KID'S DAY AMERICA/INTERNATIONAL
- (1) Report from City Manager JUNE23-03-361 CITY-WIDE
 - (2) Resolution No. 19619 relating to finance; approving and authorizing the transfer of Five Hundred Dollars (\$500) from the Contingency Fund to Organization 001-183-1838-268, for Kid's Day America/International; and declaring an emergency.
- H. FINANCE: CONTINGENCY FUND TRANSFER FOR THE BATTLE OF THE BULGE MONUMENT
- (1) Report from City Manager JUNE23-03-369 CITY-WIDE
 - (2) Resolution No. 19620 relating to finance; approving and authorizing the transfer of Six Hundred Twenty-five Dollars (\$625) from the Contingency Fund to Organization 001-183-1838-268, for Battle of the Bulge Monument; and declaring an emergency.

- I. REAL PROPERTY: AUTHORIZING SALE OF SURPLUS PROPERTY AT SILVERBELL AND TRICO-MARANA ROADS TO PIMA COUNTY
 - (1) Report from City Manager JUNE23-03-371 OUTSIDE CITY
 - (2) Ordinance No. 9868 relating to real property; vacating and declaring certain city-owned real property at the intersection of Silverbell Road and Trico-Marana Road to be surplus, and authorizing the conveyance thereof to Pima County for right-of-way purposes; and declaring an emergency.
- J. INTERGOVERNMENTAL AGREEMENT: AMENDING THE AGREEMENT WITH PIMA COUNTY FOR A JOINT HOUSING PROGRAM FOR PEOPLE WITH AIDS
 - (1) Report from City Manager JUNE23-03-372 CITY-WIDE
 - (2) Resolution No. 19621 relating to Community Services; authorizing and approving the execution of an Intergovernmental Agreement Amendment #1 between the City of Tucson and Pima County to extend the operation of a joint housing program under the FY2002 "Housing Opportunities for People with Aids" (HOPWA) Grant; and declaring an emergency.
- K. COMMUNITY SERVICES: AUTHORIZING AN AMENDMENT TO THE PUBLIC HOUSING ANNUAL CONTRIBUTIONS CONTRACT
 - (1) Report from City Manager JUNE23-03-373 CITY-WIDE
 - (2) Resolution No. 19622 relating to Community Services; authorizing and approving the execution of an amendment to the Consolidated annual Contributions Contract No. SF-225; and declaring an emergency.
- L. INTERGOVERNMENTAL AGREEMENT: WITH THE NORTHWEST FIRE DISTRICT FOR PROVIDING DISPATCHING SERVICES
 - (1) Report from City Manager JUNE23-03-374 CITY-WIDE
 - (2) Resolution No. 19626 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement with the Northwest Fire District for dispatching services; and declaring an emergency.
- M. FINANCE: CONTINGENCY FUND TRANSFER TO SUPPORT THE AMERICAN RED CROSS SAVE A LIFE SATURDAY
 - (1) Report from City Manager JUNE23-03-359 CITY-WIDE
 - (2) Resolution No. 19627 relating to finance; approving and authorizing the transfer of Five Hundred Dollars (\$500) from the Contingency Fund to Organization 001-183-1838-268, for American Red Cross Save A Life Saturday; and declaring an emergency.

N. GRANT: ACCEPTANCE OF GRANT FUNDS FROM THE STATE HISTORIC PRESERVATION OFFICE FOR THE ARIZONA HISTORIC PRESERVATION PARTNERSHIP CONFERENCE

- (1) Report from City Manager JUNE23-03-381 CITY-WIDE
- (2) Resolution No. 19628 relating to Historic Preservation; approving and authorizing the acceptance of the Grant Funds from the State Historic Preservation Office to offset travel expenses to attend the Arizona Historic Preservation Partnership Conference; and declaring an emergency.

O. FINANCE: CONTINGENCY FUND TRANSFER FOR THE TUCSON POLICE OFFICERS ASSOCIATION COMMEMORATIVE MEDALLION

- (1) Report from City Manager JUNE23-03-382 CITY-WIDE
- (2) Resolution No. 19629 relating to finance; approving and authorizing the transfer of Three Hundred Eighty-nine Dollars (\$389) from the Contingency Fund to Organization 001-183-1838-268, for Tucson Police Officers Association Commemorative Medallion; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West and seconded by Vice Mayor Scott that consent agenda items A through O be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Consent agenda items A through O were declared passed and adopted by a roll call vote of 7 to 0.

7. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that city manager's communication number 376, dated June 23, 2003, would be received into and made a part of the record. He asked the city clerk to ready the liquor license agenda.

(b) LIQUOR LICENSE APPLICATION(S)

New License(s)

(1)	LA SALSA FRESH MEXICAN GRILL 825 E. University Blvd. #181 Applicant: James W. Zeeb City #034-03, Ward 6 Series 12 Action must be taken by: July 7, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance Bus. License: In Compliance
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*	(2)	GRANT ROAD MOBIL 2402 N. 1st Avenue Applicant: Rodney S. Herbert City #037-03, Ward 3 Series #10 Action must be taken by July 19, 2003 Protest Filed	<u>Staff Recommendation</u> Police: Review in process DSD: In Compliance Bus. License: In Compliance
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(3)	QUICKSMART 4810 N. 1st Avenue Applicant: Barry M. Bennett City #039-03, Ward 3 Series #10 Action must be taken by: July 21, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance Bus. License: In Compliance
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(c) Special Events (none scheduled)

(d) Extension of Premises

(1)	CONGRESS TAP ROOM, INC. 311 E. Congress Applicant: Richard S. Oseran City #EP22-03, Ward 6 Series #6, Temporary Date of Event: July 4, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance
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(2)	KICKSTART GRILL 8987 E. Tanque Verde Road, Suite 335 Applicant: John W. Fahlbert City #EP23-03, Ward 2 Series 12, Temporary Date of Event: August 1, 2003 September 5, 2003	<u>Staff Recommendation</u> Police: In Compliance DSD: In Compliance
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Mayor Walkup asked the council's pleasure.

It was moved by Council Member Ibarra, seconded by Council Member West, and carried by a voice vote of 7 to 0, that liquor license city applications numbers 034-03; 039-03; EP22-03; and EP23-03, be forwarded to the state department of liquor licenses and control with a recommendation for approval.

*Continued at applicant's request to 6-30-03

8. WATER: UPDATED TUCSON WATER FINANCIAL PLAN FOR FISCAL YEARS 2003 THROUGH 2008

Mayor Walkup announced that city manager's communication number 377, dated June 23, 2003, would be received into and made a part of the record. He asked the city clerk to read resolution no. 19623 by number and title only.

Resolution No. 19623

Relating to the Tucson Water Financial Plan for the period from Fiscal Year 2003 to Fiscal Year 2008, and to an increase in water rates charged by the City of Tucson, and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Dunbar, seconded by Council Member West, that resolution no. 19623 be passed and adopted.

Mayor Walkup asked if there was any discussion.

Council Member West said she wanted to reassure the public that the subject resolution did not involve a rate increase. She heard on the news this morning that it did, but in fact the resolution approves some changes to the finance plan.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Resolution 19623 was declared passed and adopted by a roll call vote of 7 to 0.

9. ZONING: (C9-03-03) WALGREEN'S – CRAYCROFT AND 22ND STREET, R-3 TO C-1

Mayor Walkup announced that city manager's communication number 366, dated June 23, 2003, would be received into and made a part of the record. He also announced that this was a request to rezone property located on the southwest corner of Craycroft Road and 22nd Street. The zoning examiner and city manager recommend approval, subject to certain conditions. He asked if the applicant or a representative was present and if so, were they aware of and amenable to the standard conditions recommended by the city manager.

Keri Silvyn, Lewis and Roca, One South Church Avenue, said they were.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, that in zoning case C9-03-03, staff be directed to prepare an ordinance rezoning the subject property from R-3 to C-1, subject to the standard conditions recommended by the city manager.

Mayor Walkup asked if there was any discussion.

Council Member Ronstadt said he had mixed emotions about this case because he was tired of seeing cookie cutter Walgreen's developments on every corner in the city. At this point he did not know if the council would agree to send the plan back to the zoning examiner for architectural changes, but in the future, considering that the council members represent the city at large, no matter whose ward it is in the next one that comes to the council had better have some character as to where it is placed and some adaptability to where it is going. He was fatigued with this and venting some frustration. Rather than go off, he was just making the statement so that the next Walgreen's that comes to the council, and he imagined there would be more, had better have some type of context. He was not going to support anymore cookie cutter drug stores.

Council Member West said she feels just as strongly, but letting this development through since the council did not warn Walgreen's, would be the right thing to do. It would be nice if they voluntarily at least cut that glaring red sign. That would be a good start. She said she did not understand what item 3.a., meant. It says, "Prior to demolition of the existing pavement under the existing bus stop, the owner/developer shall contact Dan Brown at Attention Transit Advertising to allow time for ATA to remove the existing bus shelter prior to demolition. ATA shall organize removal of the bus shelter. Owner/developer shall pay the cost of removal." She asked if that meant there would not be a bus stop at that location anymore.

Peter Gavin, zoning examiner, said the purpose of the condition was to coordinate the removal and replacement of that shelter. It made no sense to remove it and then have the applicant put a new one in, and then have ATA put in new ones with the saguaros. That would be a duplication of improvements.

Council Member West said she just wanted that clarified. She noted the next page said there would be a new concrete pad for a bus shelter, but she would hate to see the bus shelter permanently removed. She was glad to know that that had been taken into consideration.

Mayor Walkup asked if there was any other discussion. There was none. He said Council Member Ronstadt's point was well taken and before another such development is proposed the council would like to see some ingenuity in how the design can be more compatible with the neighborhoods and be a little bit different. They are beginning to look the same and he asked that they use some imagination before proposing another one, wherever it is.

Council Member Leal said the council should tell McDonald's, Pizza Hut and all of the others the same thing. It is not just Walgreen. The whole place is homogenized.

Mayor Walkup said the council is in charge.

Council Member Dunbar said there was one good thing, in taking the liquor out of Walgreen's there is one less license in the subject area, which is distressed. They may be getting a Walgreen, but they are also losing a liquor store.

Mayor Walkup said they clearly had moved forward.

The motion that in zoning case C9-03-03, staff be directed to prepare an ordinance rezoning the subject property from R-3 to C-1, subject to the standard conditions recommended by the zoning examiner, was declared carried by a voice vote of 7 to 0.

10. ZONING: (C9-03-02) N.K. ASPHALT – KOLB ROAD, SR TO I-1

Mayor Walkup announced that city manager's communication number 375, dated June 23, 2003, would be received into and made part of the record. He also announced that this was a request to rezone property located on the west side of Kolb Road alignment, north of the Union Pacific Railroad. The zoning examiner and the city manager recommend approval, subject to certain conditions. He asked if the applicant or a representative were present and if so, were they aware of amenable to the standard conditions recommended by the city manager.

Carl Winters, 270 North Church, said they were.

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Scott, seconded by Council Member Leal, that in zoning case C9-03-02, staff be directed to prepare an ordinance rezoning the subject property from SR to I-1, subject to the standard conditions recommended by the zoning examiner.

Mayor Walkup asked if there was any discussion.

Council Member West said she noticed that the landscape plan for the development indicates that eucalyptus trees would be planted along the eastern property boundary. She wondered why eucalyptus trees.

Mr. Winters said the trees would not have to be eucalyptus, but they had to have height. Kolb Road goes over the railroad tracks at that point.

Council Member West asked if eucalyptus trees are on the native plant list.

Ernie Duarte, development services director, said he believed eucalyptus trees are identified in the development standards of the *Land Use Code*.

Mayor Walkup asked if there was any further discussion. There was none.

The motion was declared carried by a voice vote of 7 to 0.

11. PUBLIC HEARING: ZONING (C9-03-02) N.K. ASPHALT – KOLB ROAD, SR TO I-1, CHANGE OF DEVELOPMENT PLAN

Mayor Walkup announced that city manager's communication number 380, dated June 23, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing with respect to a change of development plan for the property located on the west side of the Kolb Road alignment. He advised that the public hearing was scheduled to last no more than one hour and speakers were limited to five-minute presentations. He asked if anyone in the audience wished to address the council. There was no one.

It was moved by Council Member Ronstadt, seconded by Council Member Dunbar, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the city clerk to read ordinance no. 9869 by number and title only.

Ordinance No. 9869

Relating to zoning; amending zoning district boundaries in the area located on the west side of the Kolb Road Alignment, North of the Union Pacific Railroad in Case C9-03-02, N.K. Asphalt – Kolb Road, SR to I-1

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Scott, seconded by Council Member Dunbar, that ordinance no. 9869 be passed and adopted, and the change of development plan be approved.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Ordinance no. 9869 was declared passed and adopted by a roll call vote of 7 to 0.

RECESS: 8:08 p.m.

Mayor Walkup announced that the council would stand at recess for five minutes.

RECONVENE: 8:21 p.m.

Mayor Walkup called the council to order and upon roll call, those present and absent were.

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Vice Mayor Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Council Member Ward 6
Robert E. Walkup	Mayor
Kathleen S. Detrick	City Clerk

Absent/Excused:

None

12. PUBLIC HEARING: TUCSON CODE AMENDING (CHAPTER 3) RELATING TO NON-CONFORMING SIGNS AND BILLBOARD ADVERTISING

Mayor Walkup announced that city manager's communication number 360, dated June 23, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing on a proposed amendment to the *Tucson Code*. He asked for staff's presentation.

Michael House, city attorney, said the proposed revisions were to two different parts of the *Sign Code*. The first provision dealt with electronic messages and changeable displays on billboards. That provision was brought forward because of a bill that was in the state legislature during its past session, which would have permitted that type of advertising under some circumstances. The amendment was brought forward to assure that that would not occur in the city of Tucson. That bill did not pass through the legislature so there was no immediate need for this amendment, although the matter could be introduced at the next session of the legislature and the city could be faced with it again next year. The second revision dealt with the subject of what type of repair or alterations can be made to nonconforming signs. State law provides that a city cannot preclude reasonable repairs and alterations to nonconforming signs, although more extensive alterations can be prohibited. The proposed amendment would merely conform the city's sign ordinance to the state law provision by allowing reasonable repairs and alterations to nonconforming signs.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said in the past when the council was discussing not how to structure or interpret the city's ordinance, but a particular case and the repair of a particular billboard, they discovered that the industry, on a couple of occasions, would take out bad wood and replace it with metal. The city said no, like had to be replaced with like because part of what determines the usable life span of a billboard, aside from its condition, is its profitability. So, if they are allowed to replace wood with metal then their

overhead goes down, a board that may be borderline in terms of breaking even starts to become profitable, and the atrophy that could otherwise go on is lessened. He hoped all the council was talking about was like for like, and that the city would not consider it to be reasonable to change metal for wood or that kind of a structural upgrade.

Mr. House said what constitutes a reasonable repair alteration is not further defined by statute, but by case law. In general, nonstructural types of repairs and alterations are permissible, but more extensive structural types of change outs to billboards would not be permitted. He said there have been a series of cases since the late '80s that deal with what type of changes can be made to nonconforming billboards. These cases range from totally removing the structure and putting up a new structure. There were billboards that had two poles and they wanted to replace the structure and have one pole. That was prohibited.

There was a recent case from Tempe where a series of changes were made to a billboard, but they were almost all found to be reasonable repairs. They were not changing major structures, so there are some areas that have not been resolved by the courts. He did not think the council could say that there isn't any element of a billboard that is made out of wood that could not be replaced with metal. For instance, if there are wood panels for the face of the sign, to take those off and replace them with metal panels, he believed the city has taken the position that that is not permissible. There are things called stringers that hold up the faces and there are other elements of a sign, some of which have not been addressed by the courts. He could not go through every element of the change.

Council Member Leal said he would not ask him to do that, but he thought some of the pieces that the council has discussed in the past in executive session have been in some cases smaller items than foundational bases and large things. He knew the council had told the billboard industry like for like and given that they did not try to sue the city, he guessed the city was right. As long as the city was holding the course that way, he was okay.

Mr. House said Frank Kern, principal assistant city attorney, could give the council further explanation.

Council Member Leal said maybe later. He was comfortable for now and the hearing could proceed.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar noted that Mr. House said the amendment would make the city's language conform to the state statute. The council's material contained the changes that the city was proposing to make, but she did not have information on the state statute. She asked if someone could get that so she could compare the state to the city's proposed amendment.

Mr. House said staff could get copies.

Mayor Walkup announced that the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. He said he had received a number of written requests from people wishing to speak and he would call on those people first.

Dan Whelan, thanked the council for the opportunity to speak on this issue, which he believes is important to the future of Tucson. He and his wife moved to Tucson last year, after a three-year trip encompassing 45 states in search of the area that they wished to call their new home. They chose Tucson because they believed it was the right size with a good balance of history, culture, and open space. Needless to say, they found open, friendly people and they remain awed with the beautiful scenery and magnificent skies. Having come from the East they had not realized what they had been missing for so many years, expanses of scenery and skies that are no longer visible to many Americans. He believed the desert, mountain scenery, and majestic skies are Tucson's most precious and irreplaceable assets.

He recognized that with growth and new technology both of those assets are at risk, but growth and intelligent use of technology is necessary for any community and can be healthy if managed properly. What is not healthy and should not be allowed are for these assets, which are both aesthetic and economic, to be destroyed for the corporate profit of the billboard industry. He urged the council to take action to prevent further destruction of Tucson's most precious and irreplaceable assets. The citizens and the tourists that Tucson needs want to see the desert, the sky islands, and the stars.

He did not know anyone who wanted or needed to see brighter, changeable billboards. He believed that history demonstrates that the majority of the council's constituents want to hasten billboard removal rather than allow their distracting nature and value to be increased, which is what electronic billboards do. Electronic billboards can be safety hazards as they are designed not only to attract, but to keep motorists' attention. He thinks the city has enough traffic issues without any new driver distractions. Some people argue that electronic billboards are just new technology that is beneficial and could lead to fewer billboards. It is new technology, that is true but he did not think anyone was naïve enough to believe it will lead to fewer billboards and if he wanted the new technology of electronic billboards he would have chosen to live in Vegas.

In choosing to live in Tucson he and his wife were pleased that the council's predecessors have restricted billboards, but they are disturbed by the number of illegal or grand-fathered billboards and signs that they see. This is because the industry got here before the code. He asked the council not to let that happen with electronic billboards. He asked them to act now and ban electronic billboards before they arrive. A ban on electronic billboards will not improve, but it will prevent further destruction of the city's great assets. He thanked the council for their time and attention.

Pat Martin, on behalf of the Meyers Neighborhood Association, her neighbors and the 29th Street Corridor Coalition's five neighborhoods, said they are surrounded by billboards. They do not want electronic displays or rotating panels, they will only create more visual blight in the area and decrease the residents' safety. They want to see Tucson's beautiful skies, clouds, and mountains. They support the proposed ordinance.

Richard Green, director of Kitt Peak National Observatory, with headquarters at adjacent to the University of Arizona Campus, on behalf of Southern Arizona astronomers and Tucson area astronomers in particular, urged the council to adopt the proposed amendment to the city code. As he said at several legislative sessions this year, his concern was, of course, for the protection of the dark sky, but in

particular, the electric panel billboards have two troubling aspects. One is that as the code was crafted for the state law, there was no restriction on how bright they could be and the fact that the illumination goes out sideways means that there is no practical way to shield the light from going up into the sky. Although that bill died quietly at the end of the session it is clear that it is a major interest and this would be a proactive way to make sure that the city protects the intent of its code. He said they are proud of the protection the council has given to the night sky for more than 25 years. It has made a big difference to the observatories and he urged them to take this step.

Mark Mayer, representing the Neighborhood Coalition of Greater Tucson, expressed support for the proposed amendment. He pointed out that the proposed ordinance did not ask the council to break any new ground. All it did was put into the city's code a longstanding administrative rule that these kinds of electronic and rotating panel features are not something that is allowed as a change to a nonconforming billboard. Virtually all of the billboards, since the adoption of the billboard ordinance in 1985, have become nonconforming. Additionally, about half of those, some 215, have major code violations. The idea that some kind of new level of intensity, some new investment that would make the structures more valuable runs counter to that whole history. For that reason, he asked the council to support the proposed ordinance.

More generally, he thought the city needed to do more to improve the image of the community and the visual quality of the streetscapes. That is an important aspect for the neighborhoods. As the previous speaker mentioned, her neighborhood is surrounded by billboards and the city needs to be improving that situation rather than doing anything that will detract from it. He thought there was a sense that there has been a little bit of slippage in recent times and they need to be getting more refocused on that particular aspect of things. Also, there are documented studies about the safety aspect of electronic billboards that have been done in places like Milwaukee and Boston.

There is certainly an argument about that, but there are a number of studies and legal cases that state as matter of law that billboards are designed to distract. If billboards are distracting, one can imagine what an electronic type of panel is supposed to do. In fact, in recent sign industry publications the industry representatives have bragged about how they can go to their advertisers and say that people remember these billboards because they are so much more distracted by the electronic aspect of it, the change of the panel and the brightness, than they are by the traditional static kind of displays. He thought for all of those reasons it was important to adopt the proposed ordinance and essentially get on with it.

Regarding the legislature, Mr. Mayer said the Neighborhood Coalition was the lead organization in a statewide coalition that was responsible for defeating the bill referenced by Mr. House. They did not retain any professional lobbyists and the cities had different concerns in the legislature so the League of Cities and Towns was not working on it. The fact that it never came to a vote was because the coalition was able to assure that there would not be enough votes for it to pass. It would be a kind of bittersweet approach to say that maybe it is not needed, then go home to Tucson and not have the mayor and council pass that type of ordinance.

Mr. Mayer said everybody he has talked with thinks this legislation will likely reappear in some form next year, so the history will be discussed again. He said the city should put the protection in now. Secondly, the Arizona Department of Transportation regulations only cover state roadways, so the layer of protection from them is only on those roadways and it is still important to have an expressed language code amendment that deals with all of the roadways in Tucson. He asked the council to adopt the proposed ordinance.

John Hart, said he serves at the pleasure of the city manager on the sign code committee and this year, as last year, he was elected by the members to serve as chairman. He was not then and is not now part of the great Tucson billboard wars; therefore, he may have more of an objective view of this issue. There are three categories of billboards in the city of Tucson. There are those that are clearly illegal, those that are so-called grandfathered, and he was not sure he liked that term since he became one, and then there are those that are legal. The code actually permits new billboards if the city chooses under certain conditions. He did not agree that an attack on a technology is the way to solve the problem.

The current code already states that electronic message centers cannot change their copy any more frequently than once per hour. In full disclosure, he said he recently supported an amendment to have the copy go to once per minute and the council decided not to adopt it. That was fine and that is the current city policy.

Mr. Hart said an electronic message center might actually reduce the amount of light that is produced by a sign. Lighted billboards currently have large floodlights that shine everywhere whereas an electronic message center has directed light out to the reader. It may actually reduce the light pollution in the sky. He suggested that the amount of light that is produced and its direction could be better regulated and still be able to allow the message centers that produce revenue for the city and perhaps even the council.

Another thing that can happen with electronic message centers, the technology is there and it is really easy to do, would be to have an emergency services override on the sign so that if there is an Amber Alert or some other emergency situation, emergency services personnel could override the commercial message that is on the sign and get it out to the public. He thought it would be nice if the city could get an Amber Alert out to everyone travelling the city's streets and byways in a timely manner.

Mr. Hart said a couple of issues had come up about the actual process of this amendment to the code. One was that the sign code committee, which works for the council, has never seen the ordinance. He saw it for the first time just a few minutes before this public hearing started. Language was put in letterform from the city attorney's office, but the committee never saw the actual proposed ordinance. He did not think that was a very good way to run a railroad. If the council wants the committee to do the job they think it should be doing. He suggested that before there is a knee jerk reaction to something that a lot of people do not like, the amendment should be returned to the committee with instructions to craft the language to regulate the technology rather than attack it.

Council Member Dunbar asked if she could ask a question.

Mayor Walkup asked the city attorney to respond.

Mr. House said there was no legal prohibition against a council member asking a question, it was up to the chair.

Mayor Walkup said she could go ahead with one question, but that was because he did not want the public hearing to end up being turned into an exchange. Also, there was a time limit for members of the public to comment.

Council Member Dunbar said she would like to see what the discussion was about. She had not seen any visual demonstrations, photographs, or anything to know what was being discussed.

Mr. Hart said he assumed her comment was not directed at him because he did not have any pictures, except one of him mending a fence.

Mayor Walkup called on the next speaker.

Dan Brocious, representing the Smithsonian Institution-Whipple Observatory, with offices in Amado and telescopes in the Santa Rita Mountains, said in view of the time limit he wanted to reinforce what the director of the Kitt Peak Observatory had said. His concern was with the fact that the illuminated billboards, the electronic billboards, have no control on their lighting, either the quantity or the direction. While it may be unfair to attack a technology, he did not see any other way in which that technology would be used, other than the way the community has seen it. In terms of electronic billboards producing less light, a billboard that was in compliance with the current code would be top illuminated so all of the light would shine down on the sign and then onto the ground where it can do some work. An electronic billboard by its nature cannot do that. Also, the signs in Phoenix that are the base of the controversy not only have the electronic illumination, but have several spotlights still on them in the fashion of a regular billboard, so there is actually more light overall. Otherwise, he was quite pleased with the way the municipalities of Southern Arizona have supported dark skies.

The Smithsonian's Observatory will be bringing a \$20 million project to Southern Arizona as a result of that. They are building the first one in their yard and some electronic components came in from Chicago today. They will be building seven of these telescopes and placing them in Southern Arizona because of the natural resources, the dark skies. It is nice to see the city getting ahead of this issue because it normally plays catch up on these sorts of things.

Rene Salgado, representing himself and Luz Social Services, said he was asked when he was in Phoenix what a social services' agency has to do with billboards. That is a good question because they normally do not have anything to do with them, but Luz is trying to make systemic changes in the community, trying to affect social norms, what is normal in the community. One of those things is what billboards promote. He lives on the eastside of town and drives to the south side, not far from Council Member Leal's Office. He has an almost beautiful drive until he gets to Alvernon and Golf Links and from that short drive to his office, about two miles, he sees 18 billboards. Several of them promote alcohol, Jack Daniel's, Crown Royal and beer, all of those things. Electronic billboards would be a new avenue to promote those

things. Why does that make social norms an issue? He said he has a five-year-old son who is starting to learn how to read and he reads everything. He asks Mr. Salgado what things say or what they are about and it is really hard to teach him that it is not a great thing to drink when half of the billboards are for alcohol. Luz and all of its work tries to do anything it can to change those norms. They are in favor of the proposed amendment and he encouraged the council to vote accordingly.

Ed Marley, president of the Southern Arizona Chapter of the American Institute of Architects, representing approximately 200 architects in Tucson and the surrounding communities, said they were in strong support of the proposed ordinance to prohibit the use of changeable copy and billboard advertising. As members of the business community, architects are keenly aware of the importance of using graphic communication as a means of disseminating information to the public, however, of even greater concern is the negative impact the potential use of changeable copy billboards will have on Tucson's aesthetic environment. Tucson is poised at a design crossroads and many groups, including the AIA, are coming together with a common goal of improving the quality of the designed and built environment within the city. The subject ordinance will be the first of many steps necessary to achieve that goal.

Additionally, the use of electronic displays will do serious harm to the astronomy industry in Tucson, as stated by previous speakers. The dark sky ordinance has been very effective in reducing waste and scatter light. It ensures that billboards will not negate that effort. Although the senate bill that was referenced earlier died this year the council can be assured that it will be back and that the AIA will continue to fight that legislation at the state capital. It is time for the city council to act, to be proactive, and get the ordinance in place so that they are not chasing after it while still trying to defeat a bill in the next session. The Southern Arizona Chapter of the American Institute of Architects encouraged the mayor and council to approve the proposed ordinance.

Rob Kulakofsky, representing the Rincon Group of the Sierra Club, said he believed everyone had gotten a copy of their letter, so he would just say the Sierra Club has a long record of being against billboards in general and electric display billboards are too extreme.

Yolanda Herrera LaFond, current president of the Sunnyside Neighborhood Association and one of many spokespersons for the South Side Neighborhood Associations' Presidential Partnership, said she did not want to repeat what the council had already heard. She would only say that billboards take away from this beautiful city and electronic billboards will only add more distractions. Already people use cell phones, change radio stations, and put on their makeup while driving. Traffic is increasing and one second of inattention adds to accidents. With one trauma center and no community hospital, the citizens' quality of life is affected. Safeguards need to be set in place before, not after the fact. She asked the council to adopt the proposed ordinance.

Jack Fitzgerald, co-chair of the Tucson Sign Code Committee, said as far as he could see this was an issue of fairness. The members of the sign code committee, at the council's behest, are looking out for the users of the signs in the city itself. In this particular case, there are some people that just do not like billboards, but they are a part of the code and all the committee members were looking at was a

fairness issue. A year ago he and Mr. Hart wanted to change the code provision to a minute. He is a user of a sign and he understands the importance of the use of the sign and the message, but at that time, the council voted it down. The code currently says the message can change once an hour, period. Everybody was talking about Las Vegas type signs, which flash and sparkle, but he asked people to remember that when a rotating panel changes once an hour there is no light. There is no big action. Most of the lighting in the electronic message center is LED's. They do not go up to the dark skies, they are just right there where they can be seen and most of the modern signs are like that. They are low power.

When Frank Kern brought this issue to the committee less than two months ago, it was a ramrod thing that had to go through and the city attorney's office wanted the committee to kill anything that would allow a new item to go on that code. All Mr. Fitzgerald was saying was that that would have been discriminating against the billboard industry, which is a dying industry. There are fewer billboards today than there were ten years ago and there will be fewer still ten years from now. All he was saying was where a legal sign can have an electronic message center that changes once an hour that is what they wanted to see.

At the committee's public hearing the vote was six to five against the city attorney's proposal to kill it. He would like to see the council at this hearing send the proposal back to the sign code committee for discussion rather than pass something that even in their own information does not address the electronic part of the message center or the rotating panels. He thought everyone had been misled a little bit and said he would be very happy to see it go back to the committee so they can get to the bottom of it. If the council approved the proposed ordinance, it would be discriminating against one part of the billboard industry and that is not fair.

Mayor Walkup asked if anyone else wished to address the council.

Bill Dupont, said in listening to the discussion he had to bring up the issue of cell phones and asked how many children have been killed because someone was answering their phone and not paying attention to their driving. The same thing will happen with electronic signs. Drivers will be paying attention to the sign and not paying attention to anything else. He just came back from Boston and that city is passing a law that in a car anyone seen talking on a cell phone and driving will get a \$250 ticket. He asked the council to be proactive; one life is just too much. He did not know if he was being dramatic, nor does the council, but they could be proactive.

Mayor Walkup asked if anyone else wished to address the council and hearing no one, asked the council's pleasure.

It was moved by Council Member Ronstadt, seconded by Council Member West, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the city clerk to read ordinance no. 9859 by number and title only.

Ordinance No. 9859

Relating to signs; amending the Tucson Code, Chapter 3 Advertising and Outdoor Signs, Article V General Requirements and Limitations, Section 3-59 Detached signs, (a) Billboard by adding paragraph 7 Prohibited advertising display; amending Article X Nonconforming signs, Section 3-91 Moving, relocating or altering of signs by specifying repairs and alterations; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Vice Mayor Scott, seconded by Council Member West, that ordinance no. 9859 be passed and adopted.

A substitute motion was made by Council Member Dunbar that ordinance no. 9859 be sent back to the sign code committee, as that committee requested.

Council Member Dunbar said it was not too long ago that another committee came forward and that committee, the stormwater advisory committee, came forward with a recommendation, the council sent it back and got a good compromise. She was embarrassed hearing from the committee at this meeting. From the material, she did not even know what the council was talking about. She did not know what the signs look like; she has not seen the material. The city attorney says the proposed ordinance brings the previous ordinance into compliance with the state. The council had the state law in front of them and she could not even see where the two match. She thought it needed to go back for further discussion.

Council Member Ronstadt seconded the substitute motion.

Mr. House, referring to the question that Council Member Dunbar asked earlier about what the statute says, said the provision he referred to was in section A of 9-462.02, which was distributed to the council. The third sentence reads, "Nothing in an ordinance or regulation authorized by this article shall affect existing property or the right to its continued use for the purpose used at the time the ordinance or regulation takes effect, nor to any reasonable repairs or alterations in buildings or property used for such existing purpose." What the provision says, essentially, is that if a person has a nonconforming use or structure they can use it in the same manner that it was being used when it became nonconforming, the only exception being that reasonable repairs and alterations can be made. He said that is what the second part of the amendment would do. He confirmed that he has spoken with Frank Kern, and it is his understanding that it is in general city policy to only allow like alterations.

Mayor Walkup asked if there was any discussion on the substitute motion.

Council Member West said she was confused by the testimony. She heard one person say that this amendment did not go to the committee and another person said it did. She noted that the council's materials indicated that it did. She said she was trying to understand what the real story was on that because if it did not go to the committee she would support the substitute motion.

Ernie Duarte, development services director, said the proposed amendments to the *Sign Code* did in fact go to the sign code committee twice. The first time no action was taken. Subsequent to that, there was a meeting where they voted to send forward no recommendation to the mayor and council. He said the amendment did go back to the sign code committee.

Council Member West said earlier someone had said they saw the proposed amendment for the first time at this hearing. She asked if that was because they were absent from the meeting, or what would be the reason for that.

Mr. Duarte said he heard Mr. Hart mention that he did not see the text that was before the council in ordinance format. The information was provided to the sign code committee although it was not in ordinance format, it was in memorandum format.

Council Member West asked what was staff's standard procedure. Normally, when they present an ordinance to a commission does staff give them the actual ordinance itself, or do they simply describe what is going to be in the ordinance. It seemed a little peculiar to her.

Mr. House said he could say from 30 years of experience in this area that at the stage of advisory committees, what they receive is the proposed text of the ordinance, but they do not see the actual ordinance. The actual ordinance is not prepared until the matter goes to the mayor and council.

Mayor Walkup said there was a conflict because Mr. Hart was saying that was not true. He said this is an important issue and asked Mr. Hart to comment. He wanted to know if the sign code committee had a chance to review the amendment to the point that they understood it.

Mr. Hart said in the nearly four years that he has been on the sign code committee, as an issue comes to them from whatever source, either the council, the public, or the sign industry, wherever it comes from, it comes as an idea, sometimes verbally, sometimes written. The committee hashes it over, comes up with something close and asks their representative from the city attorney's office to go craft the actual language of the ordinance, which is what comes to the committee and is what they use at the public hearing, so they know exactly what the council is going to vote on. That did not happen in this case. He did not see the actual ordinance until this meeting, in the council chambers. He saw a letter that had the proposed language, but no one on the committee except himself had seen the ordinance that the council was about to vote on. He asked if that clarified the issue.

Mr. House said he would like to have Mr. Kern address the issue because he was present.

Council Member Ibarra asked if Mr. Hart knew this item was going to be on the council's agenda.

Mr. Hart said yes.

Council Member Ibarra asked if it was correct that the council's material had been public information.

Kathleen S. Detrick, city clerk, said that was correct.

Council Member Ibarra said in other words material was available for anybody, whether it was the committee member, the committee chair, or any member of the public, to get the information once they knew it was on the agenda.

Mr. Hart said yes, he had the notice information. He attempted to get the ordinance today and was unable to do so until this evening. He started this morning.

Council Member Ibarra asked if he was denied the ordinance.

Mr. Hart said he was not saying he was denied, he was just unable to get it. He asked for it and it was not forthcoming.

Council Member Ibarra said he thought that was the question.

Mayor Walkup called on Mr. Kern.

Frank Kern, principal assistant city attorney, said apparently it is the practice before this particular committee, in most instances, to actually get to see the ordinance that the council will get and vote on. He was not aware that that was past practice. What he had done was prepare the actual text that was going to go into the ordinance, stating also the reasons why staff was proposing the amendment. In this particular instance, they were proposing the language that the council had in ordinance form to address the potential passage of the senate bill that the council had given staff direction to act on. The committee was advised of the purpose of the ordinance, they were advised of the need to act on it in a relatively prompt turnaround time, and to that end they formed a subcommittee. He met with the subcommittee and advised them on the same types of issues. Then it went to the full committee a couple of times. The actual text that was in ordinance form before the council was seen by the committee.

Vice Mayor Scott asked how many votes were actually taken. The material before the council said that there was a vote that was 10 to 1, then she heard about another vote of 6 to 5, then another vote she heard was no recommendation.

Mr. Kern said he was trying to remember.

Mr. House said he was not there and he could be corrected, but the communication says that a motion was made by the committee to forward the proposed language to the mayor and council, but it failed because the vote was 6 to 5. No subsequent motion was made, so no action was taken. Staff advised the committee that some action had to be taken, so the committee met again on June 3, to consider the amendment and a motion was made to recommend that the mayor and council not adopt restrictions on electronic advertising. That motion passed four to three, however, six of the seven members present would have had to agree on the motion to have a recommendation, so again there was no motion that passed nor was any action taken. At the same meeting, he believed, a second motion was made that the recommendation

contained in the memorandum from the city attorney be forwarded to the mayor and council for further action with a summary of the deliberations and prior votes of the committee. That motion passed 7 to 0. That is the action that was taken.

Vice Mayor Scott said the council's material said something about the issue coming back to the council with a vote of 10 to 1.

Mr. House said that was the other part of the amendment.

Vice Mayor Scott said that was a portion of it, so they were talking about separate votes for each of the pieces of the amendment.

Mr. House said yes.

Council Member Ibarra asked if Mr. Fitzgerald is a co-chair of the committee, and had he seen the ordinance.

Mr. Fitzgerald said he is the co-chair, Mr. Hart is the chair, and no, he had not seen it. He pointed out that on the 4 to 3 vote, what they brought before Mr. Kern, was in a rushed up meeting. He had everyone confused as to what the first vote was. They had to come up with a recommendation and Mr. Fitzgerald made a specific statement, that is on a tape someplace, and he did not care what the legalese is, he wanted it to show that the original meeting, with a vote of 6 to 5, showed that the committee rejected the city attorney's move against electronic message centers.

Mr. House said no motion was passed. The vote was 6 to 5, and it failed.

Mayor Walkup said he understood that and asked when is the committee's next scheduled meeting.

Mr. Hart said they meet monthly on the third Thursday. It would be the third Thursday in July at 2:00 p.m., in development services. He was told that would be July 15.

Mayor Walkup asked if there were any further questions.

Council Member Dunbar said a lot of the people who spoke at this hearing were concerned about whether or not the city would have electronic billboards as of tomorrow. She said it was her understanding that the code currently prohibits electronic billboards, so no one could do an electronic billboard right now if they wanted to.

Mr. Hart said that was not his understanding.

Mr. Fitzgerald said that was not his understanding.

Mr. Hart said there is language in the prohibited sign section of the code that says electronic signs with a message that changes more frequently than once per hour are prohibited, leaving it open for those signs with a message that changes less frequently than once per hour. In other words, once per hour or every two hours, whatever, are legal. He noted that Council Member Dunbar said she did not know what kind of sign they

were talking about and earlier she talked about Walgreens popping up on every corner and on every corner they have got an electronic message center with red LED's. The message cannot change more than once per hour. Those signs are legal and as he said before, there are illegal billboards too. He said the light that comes off the electronic message centers is very low light.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra said he understood why the committee wanted the council to continue the proposed amendment, but the council should be realistic. The point that the chair and co-chair wanted to go back to the committee was to see if they could find some sort of compromise. He did not want to speak for the chairman, but he used the words some sort of compromise. Council Member Ibarra said that is how he understood it and the reason he did not think the council should continue the amendment is because it is a good product and going back to the committee was just going to prolong something that they already know they can support and that they feel comfortable with. He thought that was why the council should act on the proposal at this meeting. It is a good product and he did not think it should go back to the committee when some of the council members already agreed with what was presented. He thought that was a waste of time, basically the committee's, knowing that when it leaves the committee to come back to the council they will end up supporting what was in front of them anyway. He thought that would be giving the committee a false level of expectation that they would be able to change the council members' minds, knowing that they already support the proposed amendment.

Even if the committee came back and said something was not appropriate, or they had problems with parts of it, the fact of the matter is that what was in front of the council was going to pass either way. He did not want to give the committee a false expectation, at least that was where he was coming from and that was why he did not want to send it back to the committee. He supported the amendment and did not want to give the committee that false expectation or waste their time.

Mr. Hart said the good news was that their time is free.

Mayor Walkup recognized Council Member West.

Council Member West said she was agonizing over this issue because she did not think the staff report was particularly good, in fact, she thought it was very poor. It sounded to her like there were some concerns, yet on the other hand she has listened to the testimony and she happens to agree with the people who testified. She was inclined to think that Council Member Ibarra in the grand scheme of things was correct that the council could send the amendment back to the committee, but in the longrun she believed there were enough votes to support the amendment.

She had a big warning for the future, she wants to see a better staff report, she wants to see people actually engaged in the process. She knew that during the summer months it is probably hard to get a quorum at the meetings. She said she did not think she had a vacancy, but the council should get the committee put together so that they are not placed in this position again. She agreed with Council Member Ibarra about sending it back at this point. Even though the staff report was not very good and the amendment had been rushed through she still thought the council was inclined to support it. She said she would probably support the substitute motion.

Mr. Fitzgerald noted, as Mr. Hart said, that they serve on the committee at the council's behest and they do represent the people who are the users of the signs and they take in all that information. They have to be fair to everybody, the community and the citizens, and every portion of that sign committee. He had never seen the ordinance, all they were saying was it should go back to the committee, let them hold another public hearing if they have to, let everything come out and then they will bring it back and he thought the council might look differently at it. He asked the council to remember it is not just for the community, it is for the business community also and the users of the signs.

If the code is good for a portion of the business community, like Walgreens that has a freestanding sign, but when all of a sudden new technology comes up and shows that the billboard industry can rotate a panel once an hour, with up to three signs, someone decides it's not right. He could not see how that would ever cause an accident, or all of the other issues that have been brought up by people who just don't like signs.

Council Member West said she heard earlier about Walgreens and she fully agreed with that statement and she agreed with the newcomer, who happens to be her constituent, that the city has to clean this place up so that it is not so blighted with so many signs. She certainly supports the business community, she understands why signs are needed, but she really thinks they engage in overkill in the community. In fact, in the state of Arizona she understands that there are about 50 billboard ordinances really controlling them and she sees that, in the Grand Canyon State, as a step in the right direction. She did not think she would support the substitute motion even though she thought there was a fairness issue. It could go back to the committee for another public hearing, but she was afraid it would just come back to the council and she thought those members who feel strongly about the issue are resolute and would probably vote the same way.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said he thinks when Mr. Kern answers a question to someone reading text and when he answers a question to someone reading the ordinance it is the same answer, so he did not have a problem with the amendment. He thought that if the committee expected an ordinance form and did not get it the first time and did not get it the second time, or some other time, but are used to getting it that way and expect it that way, they should tell staff so that the council does not have to hear it at its meeting. He also did not think it was a fairness issue. He thought that was a bogus and seductive argument and it is what makes visual pollution creep. The camel's got his nose under the tent and pretty soon the whole camel will be in the tent. Just because Walgreens has a little one, the council should not have to let the rest of world go to hell because it is fair.

Council Member Leal said that is stupid and he did not want any part of it. He thought the community has been really clear, he thinks the dark skies issue is incredibly important, he thinks the visual pollution in the community is important and that the parasitic predatory nature of the advertising on families and children is significant and the council simply needs to say no. He thought the staff work had been good and he wanted to vote for the amendment.

Mayor Walkup said the council was going to vote, but whenever a person is in a position where somebody is rushing to judgement, they need to ask why because there is no reason that the council should not ask the sign committee for due diligence and to bring it back. He thought the council was going to push through on the proposal, but to the sign committee he said there is a process and maybe next time they will have a chance for due process. He recognized Council Member Ronstadt.

Council Member Ronstadt said he thought what the mayor said was sad. The council has a process and they have not abided by it. There was a reason to ramrod the amendment through and that reason has gone away. Whether or not there were four votes to pass the amendment was irrelevant. The council has ignored its own process and the citizens who give up their time for free as was mentioned by Mr. Hart, to do the council's work. Why even have a committee if four votes rule the world? What is the purpose? He said there was no reason to rush the amendment through, absolutely no reason and it was a great deal of disrespect to citizens who give their time freely in the service of the community. He said he would not support the original motion, he would support the substitute motion because he wanted to abide by the process, whatever the outcome is.

Mayor Walkup asked for a roll call on the substitute motion to refer the amendment back to the sign code committee.

Upon roll call, the results were:

Aye: Council Members Dunbar and Ronstadt; Mayor Walkup

Nay: Council Members Ibarra, West, and Leal; Vice Mayor Scott

Absent/Excused: None

The substitute motion failed by a roll call vote of 4 to 3.

Mayor Walkup asked for a roll call on the motion to pass and adopt ordinance no. 9859.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, and Leal; Vice Mayor Scott and Mayor Walkup

Nay: Council Members Dunbar and Ronstadt

Absent/Excused: None

Ordinance no. 5859 was declared passed and adopted by a roll call vote of 5 to 2.

Council Member Dunbar said she wanted to explain her vote because she absolutely thought the proposed amendment should go back to the committee. She did not even know what the subject signs look like. She thought the material before the council was absolutely despicable, it is probably one of the worst presentations by staff

that she has ever seen. She did not know what the council was voting on, she was totally confused about if they were talking about Walgreens, about panels that change. She did not know what they were voting on, it should go back to the committee, that is why they have committees, that is why the council appoints members and it was despicable of the governing body not to let the people it appoints to committees do their jobs.

Mayor Walkup said he would explain his vote because he thought it should go back to the committee also, but he thought the council had heard some testimony at this meeting from a number of people that supported industry in this community. He did not think there was a rush to proceed on this issue but he would vote in the affirmative to proceed with this ordinance, even though he thought that in fact it should have gone back and the council should have seen in it a more orderly fashion. He would go with the testimony from the individuals that said this is a business issue for one of the most important issues that the community has.

Mayor Walkup asked for a second roll call vote for the purpose of the emergency clause and that purpose only.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused: None

Ordinance no. 9859 was declared passed and adopted by a roll call vote of 7 to 0, with the emergency clause.

13. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced that city manager's communication number 379, dated June 23, 2003, would be received into and made a part of the record.

It was moved by Council Member Leal, seconded by Vice Mayor Scott, and carried by a voice vote of 7 to 0, to appoint Malcolm Pavey to the Citizens Transportation Advisory Board; and John Messina to the El Presidio Advisory Board.

Mayor Walkup asked if there were any personal appointments by any member of the council.

Vice Mayor Scott announced her personal appointment of Thomas Curly to the Minority and Women's Enterprise Commission.

14. CALL TO THE AUDIENCE

Mayor Walkup announced that this was the time any member of the public could address the mayor and council on any issue. Speakers would be limited to five-minute presentations. He said he had received one written request to speak and would call on that person first.

Yolanda Herrera La Fond, said the *Sign Code* issue was a tough one and she sits on countless committees who have also been ignored. Her time is not free. If she could give the council a bill for her services they could not afford her. As she was preparing to come to this meeting she was listening to Council Member Ronstadt's comments about the cookie cutter Walgreen's developments, which caught her attention because she wrote an article in the Tucson Citizen last week using those exact words. Tucson is beginning to look like a monopoly board. It has like houses, like businesses and it is losing its diversity, its history and its culture. She thanked Council Member Ronstadt for bringing to the council's attention that the next time a Walgreen's proposal comes before the council they should make it look a little bit different. She also thanked the council for putting Walgreen's and other businesses on notice.

Mayor Walkup asked if anyone else wished to address the council. There was no one.

15. ADJOURNMENT: 9:25 p.m.

Mayor Walkup announced that the council would stand adjourned until its next regularly scheduled meeting to be held on June 30, 2003, at 7:30 p.m., in the Mayor and Council Chambers, in City Hall, 255 W. Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the city of Tucson, Arizona, held on the 23rd day of June, 2003, and do hereby certify that it is an accurate transcription of the magnetic tape record of said meeting.

MANAGEMENT ASSISTANT

KSD:DD:DP:mjv:ss
pr agnst tp:ss